

REFERENCE TITLE: **civil rights; identity disclosure prohibited**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1370**

Introduced by  
Senators Martin, Harper

AN ACT

AMENDING SECTION 41-1403, ARIZONA REVISED STATUTES; RELATING TO THE CIVIL RIGHTS DIVISION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 41-1403, Arizona Revised Statutes, is amended to  
3 read:

4           41-1403. Investigation of civil rights violation; hearing;  
5           rights and duties of division; identity disclosure  
6           prohibited

7       A. In connection with the investigation of a charge filed under this  
8 chapter, the division or its duly authorized employees shall at all  
9 reasonable times have access to, for the purpose of examination, and have the  
10 right to copy any evidence of any person being investigated, ~~provided such~~ IF  
11 ~~THE~~ evidence relates to unlawful practices covered by this chapter and is  
12 relevant to the charge under investigation.

13       B. For the purpose of all hearings and investigations conducted by the  
14 board or division:

15           1. The division, on its own initiative, or upon application of any  
16 party to the proceeding, may issue subpoenas compelling the attendance and  
17 testimony of witnesses or requiring the production for examination or copying  
18 of documents ~~provided such~~ IF ~~THE~~ evidence relates to unlawful practices  
19 covered by this chapter and is relevant to the charge which is the subject  
20 matter of the hearing or investigation. ALL SUBPOENAS ISSUED BY THE DIVISION  
21 SHALL PRESCRIBE THE RECIPIENTS' RIGHTS AND OBLIGATIONS UNDER THE SUBPOENA IN  
22 A MANNER EQUIVALENT TO THE INFORMATION REQUIRED BY RULE 45, ARIZONA RULES OF  
23 CIVIL PROCEDURE. WITHIN FIFTEEN DAYS AFTER THE SERVICE OF A SUBPOENA FOR  
24 INVESTIGATIONS UNDER ARTICLE 7 OF THIS CHAPTER AND within ~~five~~ THIRTY days  
25 after the service of a subpoena FOR ALL OTHER INVESTIGATIONS UNDER THIS  
26 CHAPTER, on any person requiring the production of any evidence in his  
27 possession or under his control, such person may petition the division to  
28 revoke, limit or modify the subpoena. The division shall revoke, limit or  
29 modify such subpoena if ~~in its opinion~~ the evidence required does not relate  
30 to unlawful practices covered by this chapter, is not relevant to the charge  
31 which is the subject matter of the hearing or investigation, does not  
32 describe with sufficient particularity the evidence whose production is  
33 required, or is unduly burdensome, OVERLY BROAD or oppressive. Any member  
34 of the division, or any agent designated by the division may administer  
35 oaths or affirmations, examine witnesses and receive such evidence.

36           2. Any person appearing before the division or the board shall have  
37 the right to be represented by counsel. THE DIVISION SHALL NOT COMMUNICATE  
38 WITH ANY PERSON WHO IS REPRESENTED BY COUNSEL EXCEPT WITH THE CONSENT OF THE  
39 PERSON'S COUNSEL OR PURSUANT TO A SUBPOENA THAT IS SERVED ON THE PERSON'S  
40 COUNSEL.

41           3. The superior court, ~~upon~~ ON application by the division or by the  
42 person subpoenaed, shall have jurisdiction to issue an order EITHER:

43           (a) Requiring such person to appear before the division, the board or  
44 the duly authorized agent of either, ~~there~~ to produce evidence relating to  
45 the matter under investigation if so ordered, ~~or~~.

1                   (b) Revoking, limiting or modifying the subpoena or conditioning  
2 issuance of the subpoena ~~upon~~ ON payment of costs or expenses incurred to  
3 comply with the subpoena if ~~in the court's opinion~~ the evidence required does  
4 not relate to unlawful practices covered by this chapter, is not relevant to  
5 the charge which is the subject matter of the hearing or investigation, does  
6 not describe with sufficient particularity the evidence whose production is  
7 required or is unduly burdensome, OVERLY BROAD or oppressive. Any failure to  
8 obey such order of the court may be punished by such court as ~~a~~ contempt.

9                  4. Charges, orders,~~—~~ and other process and papers of the division, the  
10 board,~~—~~ or the agent of either,~~—~~ may be served either personally or by  
11 ~~registered~~ CERTIFIED mail. The verified return by the individual ~~so~~ serving  
12 the same, setting forth the manner of such service, shall be proof of  
13 service. The return post office receipt ~~when registered and mailed as~~  
14 ~~provided in this paragraph~~ FOR CERTIFIED MAIL shall be proof of  
15 service. Witnesses subpoenaed shall be paid the same fees and mileage that  
16 are paid witnesses in the superior court, and witnesses whose depositions are  
17 taken and the persons taking the ~~same~~ DEPOSITION shall be entitled to the  
18 same fees as are paid for like service in the superior court.

19                 C. IN ORDER TO PROTECT THE CONFIDENTIALITY OF INFORMATION OR DOCUMENTS  
20 THAT WOULD REVEAL THE ADDRESS, TELEPHONE NUMBER OR SOCIAL SECURITY NUMBER OF  
21 ANY PERSON OR OTHER INDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ANY PERSON OR  
22 ANY PROPRIETARY OR TRADE SECRET INFORMATION, ANY PERSON THAT PRODUCES  
23 DOCUMENTS OR THAT PROVIDES INFORMATION TO THE DIVISION THAT WOULD REVEAL THE  
24 ADDRESS, TELEPHONE NUMBER OR SOCIAL SECURITY NUMBER OF ANY PERSON OR OTHER  
25 INDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ANY PERSON, OR ANY PROPRIETARY OR  
26 TRADE SECRET INFORMATION MAY DESIGNATE THAT INFORMATION AS CONFIDENTIAL. THE  
27 DIVISION SHALL NOT PRODUCE THESE DOCUMENTS OR PROVIDE THE INFORMATION TO ANY  
28 PARTY EXCEPT PURSUANT TO COURT ORDER OR COURT RULES AND AFTER BOTH OF THE  
29 FOLLOWING OCCUR:

30                 1. THE DIVISION GIVES AT LEAST TEN DAYS WRITTEN NOTICE OF THE  
31 DIVISION'S INTENT TO PRODUCE THE DOCUMENTS AND OF THE PERSON'S RIGHT TO SEEK  
32 A PROTECTIVE ORDER FROM THE COURT TO PRESERVE THE CONFIDENTIALITY OR RESTRICT  
33 THE DISCLOSURE OR USE OF THE DOCUMENTS TO BOTH OF THE FOLLOWING:

34                 (a) THE PERSON WHO PRODUCED THE DOCUMENTS.  
35                 (b) ALL PERSONS WHOSE INDIVIDUALLY IDENTIFIABLE INFORMATION IS  
36 INCLUDED IN THE DOCUMENTS.

37                 2. A COURT HAS RULED ON ANY MOTION FOR A PROTECTIVE ORDER THAT IS  
38 FILED REGARDING THE DOCUMENTS.